

8118 Birchglen Lane
Houston, TX 77070
December 6, 2002

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Proceeding 02-230, "Digital Broadcast Copy Protection"

To The Commission:

I am writing to oppose the "Broadcast Flag" plan described in 02-230, or any similar plan that limit the Fair Use rights consumers currently enjoy. I'm not unsympathetic to the problems faced by intellectual property owners, and I want to do something about piracy. I just don't want to impose "collateral damage" on law abiding consumers in an attempt to go after the pirates. If forced to choose, I choose to empower consumers even if it also allows piracy to occur. "It is better to let ten guilty men go free than send one innocent man to prison."

Right now consumers often "Time Shift" and "Location Shift" broadcast television programs, and it's a matter of settled law that this constitutes fair use. Location Shift includes viewing a program in the bedroom that was recorded in the living room, and also loaning a tape of The West Wing to a co-worker who missed last night's episode. These fair use rights must be preserved in a digital world.

The FCC should direct the entertainment and consumer electronics industries to go back to the drawing board and come up with a new proposal. Until now, all the research and planning has been based on a flawed premise. They need to start over, and design a system that prevents as much piracy as possible without harming fair use. The only suggestion I can offer is Serial Copy Management, which prevents making copies of a copy. While not an entire solution, perhaps it is a place to start.

Sincerely,

John McNamee